



DEPARTMENT OF THE ARMY
INSTALLATION MANAGEMENT COMMAND
HEADQUARTERS, UNITED STATES ARMY GARRISON, FORT LEONARD WOOD
14000 MSCOE LOOP, SUITE 120
FORT LEONARD WOOD, MO 65473-8929

IMLD-ZA

1 AUG 2016

MEMORANDUM FOR All U.S. Army Garrison Personnel

SUBJECT: Garrison Policy 19, Retaliation for Engaging in Protected Equal Employment Opportunity (EEO) Activity

1. References.

a. Memorandum, OASA (M&RA), 10 Nov 04, Subject: Retaliation for Engaging in Protected Equal Employment Opportunity (EEO) Activity.

b. Notification and Federal Employment Antidiscrimination and Retaliation Act of 2002 (No Fear Act).

c. AR 690-600 (Equal Employment Opportunity Discrimination Complaints).

d. 29 CFR 614 *et seq.*, Federal Sector Equal Employment Opportunity

2. Purpose. Provide guidance and procedures to comply with Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Equal Pay Act, and the Rehabilitation Act.

3. Applicability. This policy applies to all personnel assigned to or under the operational control of, applicants for employment with, and former employees covered under AR 690-600 with the Installation Management Command.

4. Policy and Procedures.

a. The Equal Employment Opportunity Commission (EEOC) has issued several findings of discrimination against the Department of the Army relative to discrimination based on reprisal or retaliation against individuals who participated in protected EEO activities. The EEOC's rules and regulations clearly state that no person(s) will be subjected to retaliation for participating in any stage of the administrative or judicial proceeding under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Equal Pay Act, or the Rehabilitation Act.

b. Supervisors and managers may not fire, demote, harass, or otherwise "retaliate" against a current or former employee, or applicant for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. Supervisors must continue to manage and cannot be affected by the protected activities of their employees. The legal right to protest against discrimination or to participate in

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the administrative complaint process as complainants, counselors, or witnesses is mandated by applicable laws and regulations. It is imperative that supervisors ensure their actions are not improperly motivated.

c. There are three main terms that are used to describe retaliation. Retaliation occurs when an employer, employment agency, or labor organization takes an **adverse action** against a **covered individual** because he or she engaged in a **protected activity**.

(1) An adverse action is an action taken to try to keep someone from opposing a discriminatory practice, or from participating in an employment discriminating proceeding such as termination, denial of promotion, unjustified negative evaluations, increased surveillance, having a union grievance dropped or any other actions that are likely to deter a reasonable person from pursuing their rights. Adverse actions do not include petty slights, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance and history.

(2) Covered Individuals are people who have opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination based on race, color, sex, religion, national origin, age, or disability. Individuals who have close association with someone who is engaged in such protected activities are also covered individuals. For example, it is illegal to terminate an employee because their spouse engaged in employment discrimination litigation.

(3) Protected Activity includes opposition to a practice believed to be unlawful discrimination, participating in an employment discrimination proceeding, or making a request for reasonable accommodation based on religion or disability.

d. Compliance with anti-discrimination statutes permits individuals to freely question suspected discriminatory behavior. Retaliation against those who seek relief from discrimination, if permitted to go unaddressed, would diminish the willingness of employees to speak out or participate in proceedings established to eliminate the unlawful conduct.

e. Voluntary compliance and effective enforcement ensures a workplace that does not discourage employees from exercising their rights. EEO, SJA, and/or CPAC advisors are valuable assets who can provide assistance in this area. We must ensure employees view our commitment to equal employment opportunity as a matter of personal integrity and accountability.

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5. This policy supersedes any previous policies and is in effect until superseded or rescinded.

6. Proponent. The proponent for this policy is the Equal Employment Opportunity Office at (573) 596-0602.

A handwritten signature in black ink, appearing to read "Tracy L. Lanier", with a stylized flourish at the end.

TRACY L. LANIER

COL, LG

Commanding

